

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LARRY D. CURRINGTON,

Petitioner,

Case No. 2:18-CV-12516

v.

HON. GERSHWIN A. DRAIN
U.S. DISTRICT JUDGE

RANDEE REWERTS,

Respondent.

**OPINION AND ORDER (1) DENYING MOTION TO REINSTATE THE
PETITION FOR WRIT OF HABEAS CORPUS (ECF No. 14), (2) DENYING
WITHOUT PREJUDICE MOTION FOR LEAVE TO CONDUCT
DISCVOERY (ECF No. 15), AND (3) DENYING WITHOUT PREJUDICE
MOTION TO TAKE JUDICIAL NOTICE (ECF No. 16)**

On August 14, 2018, Petitioner Larry D. Currington (“Petitioner”), filed a petition for writ of habeas corpus pursuant to 28 U.S.C. 2254, challenging his state court convictions. ECF No. 1. The Court previously dismissed the petition without prejudice because Petitioner’s first claim had not been exhausted with the state courts. ECF No. 5. The Court also denied petitioner a certificate of appealability and leave to appeal *in forma pauperis*. *See id.* The Sixth Circuit affirmed this Court’s dismissal. *Currington v. Rewerts*, No. 18-2136 (6th Cir. Jan. 30, 2019). Petitioner has now filed a petition for writ of habeas corpus, which this Court construes as a Motion to Reinstate the Petition for Writ of Habeas Corpus (ECF No. 14), as well as

a Motion for Leave to Conduct Discovery (ECF No. 15) and a Motion to Take Judicial Notice (ECF No. 16).

This Court is without the power to reinstate Petitioner's original habeas petition that had previously been filed before this Court. This Court did not retain jurisdiction over Petitioner's first habeas petition, which was dismissed without prejudice based upon Petitioner's failure to exhaust his claims with the state courts; there was no express retention of jurisdiction over the first petition. *See Lefkowitz v. Fair*, 816 F.2d 17, 21 (1st Cir. 1987). Because this Court did not expressly retain jurisdiction over the first petition, this Court will deny Petitioner's Motion to Reinstate the Petition for Writ of Habeas Corpus to this matter's active docket. *See Wilson v. Warren*, No. 06-CV-15508, 2008 WL 5273633, * 1 (E.D. Mich. Dec. 17, 2008). This denial is without prejudice to Petitioner filing a petition for writ of habeas corpus with the federal district court under a new case number.

Accordingly, **IT IS HEREBY ORDERED**, that the Motion to Reinstate the Petition for Writ of Habeas Corpus (ECF No. 14) is **DENIED WITHOUT PREJUDICE** to Petitioner filing a petition for writ of habeas corpus with the federal district court under a new case number.

IT IS FURTHER ORDERED that Petitioner's other two pending Motions (ECF No. 15, 16) are **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated: January 25, 2021

/s/Gershwin A. Drain
GERSHWIN A. DRAIN
United States District Judge

CERTIFICATE OF SERVICE

A Copy of this Order was served on Larry D. Currington, No. 176593, Carson City Correctional Facility, 10274 Boyer Road, Carson City, Michigan 48811 on January 25, 2021, by electronic and/or ordinary mail.

/s/ Teresa McGovern
Deputy Clerk